

HOUSE BILL NO. 748

INTRODUCED BY SONJU

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A BILL FOR AN ACT ENTITLED: "AN ACT DIRECTING AMENDMENTS TO ARM 42.4.201 THROUGH ARM 42.4.207 TO CLARIFY THE ADMINISTRATION OF THE INDIVIDUAL INCOME TAX CREDIT FOR CAPITAL INVESTMENTS FOR ENERGY CONSERVATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

WHEREAS, section 15-32-109, MCA, provides an individual income tax credit for capital investments made for energy conservation; and

WHEREAS, the Department of Revenue has adopted rules to implement the tax credit for capital investments for energy conservation; and

WHEREAS, ARM 42.4.204 contains a list of capital investments that result in energy conservation; and

WHEREAS, the list contained in ARM 42.4.204 is not intended to be inclusive; and

WHEREAS, the practice of the Department of Revenue is to allow the credit only for those items included on the list under ARM 42.4.204; and

WHEREAS, the Department of Revenue may refer a tax credit involving capital investment for energy conservation to the Department of Environmental Quality; and

WHEREAS, the Department of Revenue may deny a claim for the credit for capital investments for energy conservation within 5 years of the claim for the credit, resulting in significant penalty and interest charges to the taxpayer; and

WHEREAS, the administration of the credit for capital investments for energy conservation is arbitrary and causes confusion among taxpayers and tax preparers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Department to amend rules.** (1) The department of revenue shall amend ARM 42.4.201 through ARM 42.4.207, consistent with this section, to clarify the administration and enforcement of the individual income tax credit for capital investments for energy conservation. The amended rules must provide more specific guidance for the types of capital investments for energy conservation that qualify for the



1 credit. The rules must also provide specific guidance on the type of capital investments that do not qualify for the  
2 credit. The department of revenue shall develop a more expansive list of the types of capital investments that  
3 qualify for the credit to be included in ARM 42.4.204. The department of revenue shall also develop a list of capital  
4 investments that do not qualify for the credit.

5 (2) In revising the administrative rules related to the tax credit for capital investments for energy  
6 conservation, the department of revenue shall consult the department of environmental quality.

7 ~~(3) The department of revenue shall establish procedures to allow or deny the tax credit in the same year  
8 that a return is filed for claiming the credit. It is not intended that the department of revenue change the application  
9 of penalty and interest provisions under 15-1-216 in establishing these procedures. However, if the department  
10 of revenue disallows a credit in a year after the year that the return is filed, the department shall develop  
11 procedures for waiving penalty and interest for reasonable cause.~~

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13 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

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15 NEW SECTION. **Section 3. Retroactive applicability.** [This act] applies retroactively, within the  
16 meaning of 1-2-109, to tax years beginning after December 31, 2006.

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